Training and Skills
Your employees are not effectively trained to maximize their skills and productivity. These training deficiencies are having a negative impact on both service and quality. We noted that employees must rely upon fellow employees to resolve training needs without the direction nor participation of the supervisors.[134]
Many of your key jobs have insufficiently trained people to assure that employees can be assigned to meet volume requirements. This situation is especially acute as you look forward toward your anticipated ramp up of operations at the LCSC.[135]
Our studies indicate that only 48% of the key jobs have employees who are qualified to perform their functions effectively.[136]
According to their supervisors, 35% of the jobs have employees who are marginally qualified to perform the tasks. Marginal means they are only able to perform selected functions of a total order processing flow without constant follow up. This is a key point, since we saw very little training of employees by the supervisors during our studies.[137]

LCSC Management
We concluded that supervisors spend very little time guiding, coaching, or training their people. They also have very limited control over the work flows and processes. We determined that most of their contact with their people was initiated by the employees and was generally spent in a reactive "fire fighting" mode. We did not observe any supervisor spending time training their employees or recognizing a job well done.[138]
[Y]our supervisory level has a poor understanding of the concepts of proactive supervision, organizational development, and systems utilization. We believe this passive management style is a result of a lack of an effective management operating system in LCSC which would support their efforts to resolve operating problems and address training needs. We also noted the absence of management training programs which provide them with the skill sets necessary to function effectively in a start up operation such as LCSC.[139]

134 *Id.*, at 002773.

135 *Id.*

136 *Id.*, at 002797.

137 *Id.*

138 *Id.*, at 002772.

Your LCSC management systems contain fragments of most of the basic elements required to control an order entry operation. However, although many of the elements exist, they will require significant upgrades to make them effective management tools. Those elements which could be effective such as assignment controls are not being used by management to identify root causes of productivity, quality and service problems.[140]
Diagnostic assessment indicates that your supervisors have a poor understanding of the concepts of effective supervision.[141]
Supervisors very rarely follow up on work in process. This lack of supervisory involvement has left your employees to solve most problems by themselves. . . . As a result, persistent problems tend to continue before corrective action is taken, and it often deals only with the symptoms rather than root causes of the problem.[142]

BellSouth's Application is understandably silent on the subject of the Independent Audit. In response to the scathing audit report described above, BellSouth hired the auditor to improve its LCSC performance. As damaging as the initial audit is, the auditor's subsequent reports contain no discernible or quantifiable findings that can be relied on to demonstrate that BellSouth has remedied the problems at its LCSCs.[143]

Among the few conclusions that can be made from the auditor's reports documenting the implementation of their corrective plan is that BellSouth still rejects competitors' service requests at an alarming rate. The latest available figures reveal that 64.6 percent of AT&T's

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[139](...continued)
[139] *Id.*

[140] *Id.*

[141] *Id., at 002781.*

[142] *Id., at 002790.*

[143] The auditor's subsequent reports and letters to BellSouth also became part of the record in BellSouth's Section 271 proceeding in Florida. These documents are attached hereto as Exhibit 7 and are referred to hereinafter as *"Post-Audit Reports"*. *Individual reports are identified by date.*

and MCI's requests are rejected as being in need of clarification.[144] Equally disturbing are the auditor's findings that (1) these orders had to be resubmitted an average of 1.7 times in order to complete processing, and (2) "[t]he amount of time that is required to process an order is more than twice what it should take . . . ."[145]

Finally, the auditor's reports place a heavy emphasis on improvements made in BellSouth's ability to supply FOCs ("to FOC orders") within 48 hours. The latest figures on that account are remarkable in that they reveal only a 79 percent success rate.[146] Tellingly, this arbitrary measurement category (FOCs within 48 hours) is not accompanied by any data that shows that such provisioning is nondiscriminatory. Indeed, it is difficult to imagine that it takes BellSouth two days to confirm its own orders. It is even more difficult to conceive of situations — much less situations that occur in a greater than one in five rate — in which it would take BellSouth more than two days to confirm a customer's order.

D. BellSouth's OSS Does Not Support Fully Mechanized Ordering of ULLs

ACSI believes that BellSouth's electronic OSS interfaces must be fully developed and capable of supporting entry by *both* resale and facilities-based competitors prior to its receiving authority to enter the in-region interLATA market. In order to compete effectively on a facilities-based basis, ACSI must have access to a proven electronic interface capable of

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[144] *Post-Audit Reports: July 8, 1997 Letter*, at 2 (attached hereto as part of Exhibit 7).

[145] *Id.*

[146] *Post-Audit Reports: August 15, 1997 Letter*, at 4 (attached hereto as part of Exhibit 7).

handling large volumes of ULL orders in a nondiscriminatory manner.[147] BellSouth has yet to provide such an interface. Indeed, it remains the case that only initial ordering of ULLs is electronic at this time.[148] As it currently stands, ACSI submits an electronic order to BellSouth, and BellSouth responds with an electronic FOC. All other functions, including keying the entry into BellSouth's legacy systems, pre-ordering, order tracking, billing, and repair and maintenance are handled manually.[149]

Despite BellSouth's claims to the contrary,[150] its continuing reliance on manual intervention for the ordering of ULLs and other checklist items does not result in the reliable, nondiscriminatory provisioning of OSS necessary to provide competitors with a meaningful opportunity to compete.[151] Manual intervention simply results in error rates that are too high and ordering capacity that is too low to support competitive local entry. Conceding this shortcoming, BellSouth is in the process of developing and making available

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[147] DOJ also has concluded that checklist compliance requires automated support systems. *DOJ Evaluation of SBC's Oklahoma Section 271 Application*, at 28.

[148] BellSouth claims that "[m]echanized service generation for unbundled loops, ports, and interim number portability has been tested and is *available to CLECs as of October 6, 1997.*" *BellSouth Brief*, at 28 (emphasis added). Given that the effective date of this offering post-dates the filing of BellSouth's Application, ACSI believes that it amounts to nothing more than a promise of future performance that has no substantive bearing on the determinations that must be made in this proceeding. *See*, *Ameritech Michigan Order*, ¶ 55.

[149] *Falvey Aff.*, ¶ 47. Thus, regardless of what BellSouth OSS interface is used, the functionality offered is hardly better than if the orders were submitted via facsimile or e-mail.

[150] *See BellSouth Brief*, at 21-33.

[151] *See, DOJ Evaluation of SBC-Oklahoma*, at 27.

its LENS and EDI interfaces[152]. However, these systems are in limited use and have not been sufficiently tested to ensure that they will provide the necessary functionalities in a commercial setting. Critically, these systems currently have little or no capability to support the provisioning of ULLs, INP and other checklist items. For a facilities-based competitor such as ACSI, these are the most significant requirements of any DSI system. Indeed, BellSouth admits that as of the Application date, it was unable to perform mechanized service generation for ULLs, ports and INP.[153] BellSouth claims that EDI is the appropriate interface for ULLs and other elements not available through LENS. Yet, EDI is only just being tested today and will not be in widespread commercial usage until next year. Thus, as with other critical interconnection arrangements, BellSouth must demonstrate proven performance and not just paper promises in order to comply with the Section 271 checklist requirement that access to OSS be provided on a nondiscriminatory basis.

E. BellSouth's Performance Measurements Are Inadequate

The ACSI/BellSouth Interconnection Agreement is replete with guarantees that BellSouth will provide local interconnection and UNEs at service levels that are at "parity" with services and facilities provided by BellSouth to itself or its end-users. While such general warranties are very important, they are extremely difficult to enforce in the absence of detailed statistical information comparing BellSouth's performance for itself as compared to the actual service levels provided to interconnectors. When ACSI negotiated its

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[152] ACSI recently established the LAN-to-LAN connectivity with BellSouth that will permit the establishment of the LENS interface.

[153] *BellSouth Brief*, at 28.

interconnection agreement with BellSouth in July 1996, BellSouth steadfastly refused to share such performance monitoring and measurement information with ACSI.[154] Responding to outcries from the industry generally, BellSouth has more recently expressed a willingness to provide limited performance measurement data. However, in ACSI's view, BellSouth's proposal falls far short of that necessary to measure true "parity" in service levels.

Specifically, ACSI has asked BellSouth to correct five glaring deficiencies in its performance reporting. First, ACSI asked BellSouth to report statistics on a city or end office basis rather than an averaged statewide basis. Since ACSI competes with BellSouth in specific urban areas, it is important to know how BellSouth serves customers in those areas as opposed to more rural areas where it does not face competitive pressure. Second, ACSI asked BellSouth to report ULL installation data separately for business versus residential customers. ACSI understands that BellSouth applies different performance objectives for itself in these market segments,[155] and it is important that its aggressive business service targets not be watered down by residential statistics. Third, ACSI asked BellSouth to report the number of minutes it takes to perform customer cutovers. BellSouth's current practice of reporting "due dates" met provides no meaningful information as to whether customers were cutover in accordance with the 5-minute requirement of the ACSI/BellSouth Interconnection Agreement. Fourth, ACSI requested that BellSouth provide reports that make it possible to compare BellSouth's success in installing ULLs to its experience in turning up new lines for

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[154] *Falvey Aff.*, ¶ 49.

[155] Notably, BellSouth already reports resale statistics separately for the business and residential market segments. *See Affidavit of William N. Stacy (Performance Measures)*, Exhibit WNS-1 (hereinafter, *"Stacy Performance Aff."*).

its own end-users. Since the ULL is the key UNE provided by BellSouth to ACSI, establishing a statistical point of comparison is essential to ensure service "parity". BellSouth refused — and continues to refuse — each of these requests.[156] Finally, BellSouth generally has refused to provide *actual* intervals for its services to its own end-users, relying instead upon estimates and targets for those intervals.

For a facilities-based CLEC such as ACSI, BellSouth's reluctance to provide meaningful comparative reporting concerning its performance in installing ULLs is cause for particular concern. As discussed earlier, ACSI has experienced great difficulty in having BellSouth install ULLs dependably. Indeed, BellSouth's own auditors confirm that the performance of its LCSCs has been miserable. Nevertheless, even under the proposal made by BellSouth to the Commission in its Application, BellSouth takes the position that it cannot report comparative data on its ULL performance because "BST has no UNEs for comparison."[157] This is hogwash. BST turns up new lines for both new and existing customers every day. The turn-up of such new lines is both the functional and market equivalent of the installation of ULLs for CLECs. From an end-user customer's perspective, certainly, such cutovers amount to the same thing — establishment of service. Thus, it is imperative that parity in performance be monitored. Indeed, there is virtually no other way to ensure that BellSouth is honoring its statutory obligation of nondiscrimination.

Finally, it is worth noting that no performance reporting has value if it is inaccurate. While BellSouth's affiant Stacy claims that initial measurements demonstrate a parity in

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[156] *Falvey Aff.*, ¶ 50.

[157] *See Stacy Performance Aff.*, Exhibit WNS-3, at 2.

performance, that certainly is not consistent with ACSI's experience. Interestingly, the initial statistics provided by BellSouth to ACSI on the installation of ULLs for ACSI do not comport with ACSI's actual experience. Simply put, ACSI's data shows a failure rate much higher than that reported to it by BellSouth. The basic problem is that BellSouth reports an installation as successful if it ultimately is installed on the due date, *regardless* of whether the customer is delayed for hours, put out of service for hours, INP installation is mishandled, etc. Thus, many of the horror stories recounted by ACSI in the preceding section -- which violate the express terms of the ACSI/BellSouth Interconnection Agreement -- would be counted as successful installs in BellSouth's proposed ULL performance measurement system. This renders the resulting statistics meaningless. ACSI believes that each of these problems must be ironed out *before* the Commission can approve BellSouth's Application.[158]

IV. BELLSOUTH'S PREMATURE ENTRY INTO THE SOUTH CAROLINA INTERLATA MARKET IS NOT IN THE PUBLIC INTEREST

The prospect of interLATA entry via Section 271 is the *only* cognizable incentive that RBOCs have to cooperate and facilitate the development of local competition.[159] Again,

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[158] The Georgia Public Service Commission, as a direct result of a complaint filed by ACSI against BellSouth, will be the first state commission in BellSouth's service territory to conduct hearings on performance standards. Direct testimony in that proceeding is due Wednesday, October 22, 1997.

[159] To underscore this point, the Commission previously noted that:

> Ameritech's Chief Officer, Richard Notebaert, has recognized the power of [the Section 271] incentive. In commenting on the difference between Ameritech and GTE, which is not subject to the section 271 requirements, Mr. Notebaert is quoted

(continued...)

each CLEC customer gained is an RBOC customer lost. Thus, the Commission must be absolutely certain that BellSouth has completely and irreversibly opened its local exchange markets to competition before it removes that sole incentive by approving BellSouth's Section 271 Application.

Approval of BellSouth's current Application for entry into the South Carolina interLATA market is not in the public interest because BellSouth has not taken the necessary steps to open its local exchange markets in that state to competition. As has been demonstrated above:

- BellSouth consistently has proven that is unable and unwilling to implement its interconnection agreements with potential competitors in South Carolina and throughout its service territory.

- BellSouth has demonstrated a remarkable inability to provision ULLs, INP and other checklist items. This is confirmed not only by ACSI's experiences across the region but also by BellSouth's own internal audit of its local competition service centers.

- Despite the Commission's original requirement that nondiscriminatory access to OSS be made available by the first of this year,[160] BellSouth still is unable to provide such access and, in fact, has no electronic method for ordering ULLs.

- BellSouth has failed to provide cost-based and geographically deaveraged rates for interconnection and UNEs. In South Carolina, BellSouth's ULL pricing policies create a cost-price squeeze that makes the provisioning of

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[159](...continued)
as stating: The big difference between us and them is they're already in long distance — What's their incentive to cooperate?"

Ameritech Michigan Order, at n.25 (citation omitted).

[160] The FCC has determined that it would not take enforcement action against incumbent LECs "making good faith efforts to provide . . . access [to OSS functions]." *Local Competition Order, Second Order on Reconsideration*, CC Docket No. 96-98, ¶ 11 (rel. Dec. 13, 1996).

facilities-based services to residential customers in South Carolina economically unfeasible.

The public interest standard also requires that BellSouth not engage in activities that impede the development of local competition in South Carolina. However, BellSouth has engaged and continues to engage in an alarming array of activities designed to shield itself from competition and hobble its potential competitors. For example, as has been described above, BellSouth has become quite adept at using the time delay caused by its own inability to provide nondiscriminatory OSS access and provision ULLs and INP to engage in anticompetitive practices. In a recent South Carolina example, ACSI could not provide a new customer with an order completion date because BellSouth (1) initially could not provide ACSI with a FOC, (2) then provided one that was more than two months after the original order, (3) then agreed to move the FOC date forward, (4) then missed the FOC date, and (5) then forced ACSI to resubmit the order. Throughout this frustrating delay, a BellSouth representative repeatedly made contact with the customer and tried to derail the switch to ACSI by claiming that BellSouth could offer better options.[161]

In other instances, BellSouth's anticompetitive activities are unrelated to its dilatory provisioning tactics, but are no less egregious. For example, in September 1997, ACSI lost a local Mississippi government contract worth more than $125,000 because of a BellSouth representative's false and disparaging comments about ACSI and defamatory comments about its employees. In South Carolina, also in September 1997, an ACSI customer was informed by BellSouth that its directory assistance listings were dropped because it no longer was a

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[161] *Falvey Aff.*, ¶ 53.

BellSouth customer. Although the listings were restored within a week, this and the previous example show, at the very least, that BellSouth is disturbingly permissive of anticompetitive behavior by its employees and agents.[162]

BellSouth also uses a variety of methods to lock-in existing BellSouth local customers and prevent new entrants from freely competing for their business. BellSouth has been aggressively promoting the use of multi-year customer-specific Contract Service Arrangements ("CSAs") where it competes with ACSI for specific business customers. While there may not be anything inherently wrong with CSAs, ACSI believes that, given the extraordinary head start BellSouth enjoys in the switched services market, BellSouth should not be permitted to lock in customers to long-term contracts while local competition is in its infancy.[163] ACSI suggests that the public interest requires that a "fresh look" policy be implemented as a condition of Section 271 approval to ensure that all South Carolina end-users have an opportunity to choose local service providers, once BellSouth releases its stranglehold on essential bottleneck facilities.[164]

Among the more startling of BellSouth's anticompetitive initiatives is its ongoing campaign to effectively lock CLECs out of major office buildings, office parks, shopping centers and other similar properties. Specifically, BellSouth is enticing property management companies to enter *exclusive* marketing arrangements with BellSouth under which the property managers are paid handsomely for promoting BellSouth's services to tenants of the

[162] *Id.*, ¶ 54.

[163] *Id.*, ¶ 55.

[164] Such a "fresh look" policy also should require the suspension of termination liability provisions.

property, and for refusing to establish similar promotional agreements with CLECs. Under the terms of BellSouth's standard form Property Management Services Agreement, BellSouth obtains access — free-of-charge — to building entrance conduits, equipment room space and riser/horizontal conduits for placement of BellSouth equipment and other telecommunications facilities needed to serve building tenants. The property manager also commits to designate BellSouth as the local telecommunications "provider of choice" to building tenants and to promote BellSouth as such. In return for the property manager's efforts, BellSouth agrees to establish a "Credit Fund" which the property manager can use itself or distribute to tenants. The Credit Fund is usable to pay for selected BellSouth services (*i.e.,* seminars, nonrecurring installation charges, etc.).[165]

This program has at least two anticompetitive effects, largely attributable to the fact that the arrangement is expressly an *exclusive* one. First, because BellSouth is given "free" (no cash payment) access to the building conduit and riser it gains an inherent cost advantage in obtaining the use of these essential facilities. Second, since the property manager must agree to promote BellSouth services exclusively in order to be compensated, BellSouth has created an incentive for property managers to refuse to cooperate with ACSI and other CLECs in promoting and providing services to building tenants.[166]

BellSouth's use of exclusive agreements designed to block its potential competitors also has been extended to sales agents. In states across the BellSouth territory, BellSouth has been requiring sales agents to sell BellSouth local services *exclusively*. Indeed, BellSouth's

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[165] *Falvey Aff.*, ¶ 56.

[166] *Id.*, ¶ 57.

sales agency agreements routinely include provisions that prevent sales agents from selling CLEC services for a year *after* their BellSouth contract is terminated. Thus, if a sales agent wishes to market the services of a competitive provider, the agent first must terminate his or her BellSouth representation and then forego selling competitive services for at least one year to satisfy the non-compete provisions typically found in BellSouth's exclusive agency agreements. Clearly, this deprives ACSI and other competitors of access to an important sales channel.[167]

BellSouth's anticompetitive program also extends to its activities in the carrier customer market. In February 1996, ACSI filed a Formal Complaint with the FCC with reference to the grossly excessive reconfiguration nonrecurring charges ("RNRCs") that BellSouth imposed on IXCs, attempting to make an access channel termination location ("ACTL") move to ACSI.[168] ACTL moves are required whenever an IXC agrees to switch all or part of its direct trunked access transport services on a given route from BellSouth's network to the network of a competing provider, such as ACSI. Although incumbents typically require the payment of RNRCs to accomplish such ACTL moves, BellSouth's RNRC's are applied inconsistently and have effectively shut ACSI, and all other competitive providers, out of the customer facility market in BellSouth territory.[169]

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[167] *Id.*, ¶ 58.

[168] *American Communications Services, Inc. v. BellSouth Telecommunications, Inc.*, FCC File No. E-96-20 (public versions of ACSI's Initial Brief and Reply Brief are attached hereto as Exhibits 8 and 9, respectively).

[169] *ACSI Initial Brief*, FCC File No. E-96-20, at 2-3.

In ACSI's experience, BellSouth has applied the RNRCs for ACTL moves in a manner which prevents IXCs from switching to ACSI transport services. As explained in ACSI's Formal Complaint, the charges imposed on IXCs are not reasonably related to the direct costs incurred by BellSouth in making the ACTL move. Indeed, they are inconsistent with the rates included in BellSouth's interstate access tariff. Even more troubling, the RNRCs imposed by BellSouth for IXC access network reconfigurations to connect to ACSI services routinely far exceed the reconfiguration charges imposed by BellSouth when an IXC orders reconfigurations from one BellSouth service to another.

BellSouth's excessive RNRCs effectively presents carrier customers with three equally unattractive choices: (1) forego reconfiguration; (2) reconfigure with BellSouth so as to avoid or minimize the RNRCs; or (3) switch to ACSI and pay the RNRC costs (or force ACSI to absorb such costs). Indeed, it is often the case that the only way for ACSI to make a reasonable bid to a potential access customer is to include an offer to pay for the significant and unreasonable reconfiguration costs imposed by BellSouth. Unfortunately, this is almost always economically infeasible.[170] As a result, ACSI's efforts to convince otherwise ready, willing and able access customers to switch from BellSouth transport services have been stymied.

In short, unless BellSouth is made to correct its provisioning shortcomings and cease its anticompetitive activities, South Carolinians will never realize the benefits of local competition. Very few South Carolinians currently have a choice in switched local service

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[170] For example, ACSI's inability to absorb BellSouth's excessive RNRCs caused one IXC that had agreed to move thirteen (13) DS3 circuits from BellSouth to ACSI to back out of a five-year contract expected to be worth $500,000 in revenues. *Falvey Aff.*, ¶ 61.

providers and those with the choice that do elect to make the switch from BellSouth currently are served via resale. Thus, with local exchange competition in South Carolina clearly in its nascent stages of development, the public interest requires that the incentive of Section 271 be held in place and that BellSouth's Application be denied.

V. CONCLUSION

As the foregoing discussion demonstrates, BellSouth's Application is procedurally defective because it erroneously was filed under Track B — it should be dismissed on that ground alone. In the event that BellSouth's Application is not dismissed, ACSI respectfully requests that it be denied on the basis that (1) BellSouth's SGAT fails to comply with the Act and the Commission's rules and policies, (2) BellSouth is not able or is not willing to comply with the Section 271 checklist, and (3) BellSouth's premature entry into the interLATA market is not in the public interest.

Respectfully submitted,

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